

JOSEPH P. RUSSONIELLO (CABN 44332)
United States Attorney

BRIAN J. STRETCH (CABN 163973)
Chief, Criminal Division

WENDY THOMAS (NYBN 4315420)
Special Assistant United States Attorney

LINDSAY HOOPEs
Law Clerk

450 Golden Gate Avenue, Box 36055
San Francisco, California 94102
Telephone: (415) 436-6809
Facsimile: (415) 436-7234
E-Mail: wendy.thomas@usdoj.gov

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,) Case No. CR 08-0163 MAG

Plaintiff,)

v.)

LISA K. EMMART,)

Defendant.)

**DECLARATION OF LINDSAY
HOOPEs IN SUPPORT OF UNITED
STATES' MOTION FOR SUMMONS**

I, Lindsay B. Hoopes, hereby declare as follows:

1. I am a Law Clerk in the United States Attorney's Office assigned to the prosecution of this case. I received the following information from Rangers employed by the National Park Service and assigned to the Golden Gate National Recreational Area and the Presidio Trust.

2. On February 22, 2008, at approximately 7:00 p.m., National Park Service ("NPS") Rangers Eric Yount ("Yount") and Ranger Shannon Jay ("Jay") were on duty in a marked patrol vehicle at Lincoln Boulevard and Howard Road in the Presidio. Yount spotted a gray Jeep Sports Utility Vehicle bearing California License Plate No. 5FEG749. While traveling southbound, the Jeep pulled off to the side of the road and the driver contacted the Rangers.

1 3. The driver indicated to the Rangers that she was looking for her missing father. Jay
2 noted that the only occupant of the vehicle was a white female later identified by her California
3 driver's license as Lisa K. Emmart ("Emmart").

4 4. Jay noticed that Emmart exhibited objective signs of intoxication, including slurred
5 speech and bloodshot, watery eyes. Jay detected a strong odor of alcohol emanating from the
6 vehicle.

7 5. Jay requested Emmart pull her car over to a safer location. When Jay directed Emmart to
8 pull her car forward, Emmart actually drove it backwards, the wrong way, down the street.
9 Emmart then corrected the car's direction, and moved to Jay's designated location.

10 6. Jay ordered Emmart out of her car. When Emmart exited the vehicle, Emmart was
11 unsteady on her feet and walked in a slow gait around the vehicle. Emmart was so unsteady that
12 Jay asked Emmart to sit in her vehicle while he asked her additional questions.

13 7. Jay asked Emmart if she had been drinking, and she indicated she consumed one
14 beverage. Jay noticed the odor of alcohol emanating from Emmart's person..

15 8. Ranger Agnew ("Agnew") arrived on scene to help conduct Field Sobriety Tests
16 ("FSTs"). Agnew and Yount attempted to initiate the tests, but Emmart was uncontrollably
17 crying and hyperventilating. Emmart's speech became so slurred that the Rangers could not
18 understand what Emmart was saying. Yount calmed Emmart down, and Jay proceeded to
19 conduct FSTs.

20 9. Jay administered the following tests: Horizontal Gaze Nystagmus - Jay observed lack of
21 smooth pursuit, with distinct and sustained nystagmus at maximum deviation, with an onset of
22 nystagmus prior to 45 degrees in the left and right eyes; Rhomberg Balance Test - Emmart took
23 one minute and 15 seconds to estimate the passage of 30 seconds; Finger Count Test - Emmart
24 missed her ring finger; One-Leg Stand - Emmart put her foot down twice during the 30 second
25 count and swayed while attempting to balance. Emmart swayed so far backwards that she had to
26 take a couple steps to catch her balance. Jay conducted the test a second time on the sidewalk - a
27 smooth even surface. Emmart put her foot down again, this time twice within first eight-count.
28 Emmart similarly swayed while balancing. After Emmart put her foot down, Jay felt it necessary

1 to ask her to yield for her personal safety.

2 10. The Rangers concluded that Emmart's performance on the FSTs, in conjunction with the
3 odor of alcohol emanating from her person and her objective signs of intoxication, led the
4 Rangers to conclude she operated her vehicle under the influence of alcohol.

5 11. The Rangers administered the Portable Breath Test ("PBT") which indicated that
6 Emmart had a Blood Alcohol Concentration ("BAC") of .234, almost three times the legal limit.

7 12. Yount placed Emmart under arrest for driving while under the influence of alcohol. The
8 Rangers subsequently conducted a test using the Intoxilyzer 5000, which indicated that Emmart
9 had a BAC of .243.

10 13. Yount cited Emmart with two violations: 1) citation No. 0894314 for operating a vehicle
11 while under the influence of alcohol with a BAC of .08 or higher, in violation of 36 C.F.R. §
12 1004.23(a)(1); and 2) citation No. 0894279 for operating a motor vehicle under the influence of
13 alcohol, in violation of 36 C.F.R. § 1004.23(a)(2).

14 14. I declare under penalty of perjury, according to the laws of the United States, that the
15 foregoing is true and correct to the best of my knowledge and belief.

16
17 Respectfully submitted,

18
19 Dated: April 8, 2008

20 /s/
LINDSAY B. HOOPES
Law Clerk